

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RUBEN C. HOLTON,

Plaintiff,

v.

UNITED STATES OF
AMERICA, et. al

Defendants.

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Civil No. 4:22-cv-487

Judge Sylvia H. Rambo

ORDER

AND NOW, this 9th day of May, 2024, upon consideration of defendant United States of America's motion to dismiss (Doc. 17), and after careful review of the Report and Recommendation of United States Magistrate Judge William I. Arbuckle, and the government's partial objection to the Report and Recommendation (Doc. 29), **IT IS HEREBY ORDERED** as follows:

1. The Report and Recommendation of Magistrate Judge Arbuckle (Doc. 28) is **ADOPTED** in all regards except as to the Report and Recommendation's reasoning in denying the government's motion to dismiss plaintiff's claim for ordinary negligence;
2. The government's Partial Objection to the Report and Recommendation is **OVERRULED** in substantial part;
3. The government's Motion to Dismiss (Doc. 17) is **GRANTED** in part and **DENIED** in part as follows:
 - a. All claims against Defendants Brosious, Mace-Liebson, Spiese, and the Director of the Federal Bureau of Prisons are **DISMISSED WITH PREJUDICE**, and Defendants Brosious, Mace-Liebson, Spiese, and the Director of the Federal Bureau of Prisons are **TERMINATED** as parties to this action;

- b. Plaintiff's intentional infliction of emotional distress, negligent supervision, and negligent hiring claims are **DISMISSED WITH PREJUDICE**; and
 - c. Defendant's motion to dismiss plaintiff's ordinary negligence and medical malpractice claims is **DENIED**.
4. The Court **ADOPTS ALTERNATIVE REASONING**, outlined in the accompanying memorandum, for denying the government's motion to dismiss the ordinary negligence claim; and
5. This case is **REMANDED** to Magistrate Judge Arbuckle for further proceedings.

/s/Sylvia H. Rambo
Sylvia H. Rambo
United States District Judge